

No. 134.

4th Session, 7th Parliament, 57 Victoria, 1894

BILL.

An Act respecting the utilization of the
waters of the North-west Territories for
Irrigation and other purposes.

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June, 1894.
Second reading, Wednesday, 6th June, 1894.

Sir JOHN THOMPSON.

OTTAWA

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1894

Bill with Suggested Amendments by
Judge Clark, Solicitor of the C. P. Ry

No. 134.]

BILL.

[1894.]

An Act respecting the utilization of the waters of the North-West Territories for Irrigation and other purposes.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. This Act may be cited as *The North-West Irrigation Act*. Short title.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "Minister" means the Minister of the Interior; Interpretation. "Minister."

(b.) The expression "agent" means the registrar of the lands registration district in which the land or water situated. "Agent."

(c.) The expression "Dominion land surveyor" means a surveyor duly authorized, under the provisions of *The Dominion Lands Act*, to survey Dominion lands; "Dominion land surveyor."

(d.) The expression "company" means any incorporated company, the objects and powers of which extend to or include the construction or operation of irrigation or other works under this Act or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes, and includes also any person who has been authorized or has applied or is about to apply for authority to construct and operate such works or carry on such business; "Company."

(e.) The expression "works" means and includes any dykes, dams, weirs, flood-gates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, headworks, flumes, aqueducts, pipes, pumps and any contrivance for carrying or conducting water, subterranean galleries, artesian wells or other works which are authorized to be constructed under the provisions of this Act; "Works."

(f.) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit is the discharge of one cubic foot of water per second. "Duty of water."

3. This Act shall apply to and be in force throughout the North-West Territories. Application.

4. The right to the use of all water at any time in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water whether surface or sub- Right to use waters.

or who has obtained a license under clause 11 of this act

or who has obtained a license under clause 11 of this act & is about to apply

until the contrary is provided

As to rights
already held.

terranean shall, for the purposes of this Act, in every case be deemed to be vested in the Crown until the contrary is proved by establishing any other right than that of the Crown to the use of such water; and, save in the exercise of any legal right existing at the time of such diversion or use, no person shall divert or use any water from any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water, whether surface or subterranean, otherwise than under the provisions of this Act.

Rights of
grantee of
Crown lands.

5. No grant by the Crown of lands or of any estate or interest therein shall vest in the grantee any exclusive or other property or interest in or any exclusive right or privilege with respect to any lake, river, stream or other body of water, whether surface or subterranean, or in or with respect to the water contained or flowing therein, or the land forming the bed or shore thereof.

Right to use
waters may be
acquired only
under this
Act.

6. After the passing of this Act, no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canon, lagoon, swamp, marsh or other body of water, whether surface or subterranean, shall be acquired by any riparian owner or any other person by length of use or otherwise than as it may be acquired or conferred under the provisions of this Act.

Persons al-
ready holding
rights must
obtain license.

7. Any person who holds water rights of a class similar to those which may be acquired under this Act, or who, with or without authority, has constructed or is operating works for the utilization of water, shall obtain a license or authorization under this Act within twelve months from the date of the passing of this Act.

If license is
not obtained
within stated
time.

2. If such license or authorization is obtained within the time limited, the exercise of such rights may thereafter be continued, and such works may be carried on under the provisions of this Act, otherwise such rights or works, and all the interest of such person therein, shall without any demand or proceeding be absolutely forfeited to Her Majesty and may be disposed of or dealt with as the Governor in Council sees fit.

Application
for license.

3. The application for such license or authorization shall be made in the same manner as for other licenses or authorization under this Act, and the like proceedings shall be had thereon and the like information furnished in connection therewith.

Application
for water
rights which
are vested in
the Crown.

8. Any water the property in which is vested in the Crown may be acquired, for domestic, irrigation, or other purposes, without regard to diminution in quantity, upon application therefor as hereinafter provided and all applications made in accordance with the provisions of this Act shall have precedence, according to the date of filing them with the agent, if for the same purpose, but not otherwise.

Water rights
classified.

2. The purposes for which the right to water may be acquired are of three classes, namely: First, domestic purposes, which shall be taken to mean household and sanitary purposes, and the watering of stock, but shall not include the sale or barter of water for such purposes; second, irrigation purposes; and, third, other purposes.

and all purposes connected with the
working of Railways or factories
by steam

Except in pursuance
of some agreement
or undertaking
existing at the
passing of this
Act

unless it is acquired by
a grant made in
pursuance of some
agreement or undertaking
existing at the passing
of this Act

in such limits
as the
Governor in Council
may see fit

unless it is
acquired by a
grant made in
pursuance of
some agreement
existing at the
passing of this
Act

Water rights
classified
by the
Governor in Council
as follows:
1. Domestic purposes
2. Irrigation purposes
3. Other purposes

3. Applications shall have precedence in this order irrespective of the date of filing, so that all applications for domestic purposes shall have precedence of all those for irrigation and other purposes, and all applications for irrigation purposes shall have precedence of all those for purposes within the third class.

Ranking of applications.

9. No application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other source of supply of whatever water he requires for domestic purposes.

Rights of riparian proprietors.

10. When any person abandons or ceases to use any waters acquired by him for the purposes for which they were acquired, or wastes such waters, his right to use them shall cease.

Water rights forfeited by non-user or waste.

11. Any person contemplating or projecting any works under this Act, may, upon submitting a general description of such works and upon payment of a fee of \$50 obtain from the agent a license to do the necessary preliminary work in connection with the location of such works; and after he obtains such license may, with such assistants as are necessary, enter into and upon any public or private lands to take levels, make surveys, and do other necessary work in connection with such location, doing no unnecessary damage.

Preliminary work by licensee.

Entering lands.

12. Any company applying for a license or authorization under this Act shall file with the Minister and the agent a memorial setting forth the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers and their places of residence, the amount of the company's subscribed capital and the amount of its paid up capital, the proposed method of raising further funds, if needed, and the purposes for which the company is incorporated.

Memorial and maps and plans to be filed by applicant for license.

2. If the applicant is not an incorporated company, the memorial shall set forth his name, residence and occupation, and such particulars as to his financial standing as shall establish to the satisfaction of the Minister his ability to carry out the proposed undertaking.

If not a company.

3. The memorial shall also state the name of any river, stream or other source of supply from which water is to be diverted, the extent of settlement along or in the vicinity of such river, stream or other source of water supply; the probable quantity of water to be used, and the point of diversion; the works proposed to be constructed for the purposes of the undertaking, and the locality of the same, as near as may be; the purpose to which the said water is to be applied, and the proposed rate to be charged for it; the probable number of consumers; the probable quantity of land that may be beneficially irrigated; the character, description and value of such land in its present state, including improvements, and such other and further particulars as are needful to a full understanding of the scheme.

Certain details to be furnished.

General map
of country to
be served.

4. Attached to the memorial shall be a general map or plan, on a scale of not less than one inch to half a mile, showing the tract to be served by such water, the location of all rivers, streams and other sources of water supply therein, and the probable location of the proposed works, also the position and area of all ponds, reservoirs or basins intended to be created for the purpose of storing water or which may have that effect. 5

Plans of
bridges and
other struc-
tures.

5. There shall also be filed with the memorial, plans in detail of all bridges or culverts necessary for road or farm crossings over or under the works of the company, also plans in detail of flumes, headworks, dams or other structures for the diversion or use of water, such plans to be on a scale of not less than one inch to four feet. 10

Additional
plans in the
case of certain
canals.

6. In the case of all ditches or canals carrying more than twenty-five cubic feet of water per second, in addition to the above information the applicants shall furnish the following maps or plans: 15

(a.) A longitudinal profile of the ditch, showing the bottom and the proposed surface water line. The horizontal scale of this plan shall be not less than one inch to four hundred feet, and the vertical scale not less than one inch to twenty feet; 20

(b.) A plan showing cross-sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on side-hills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross-sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. The plan shall be drawn on a horizontal and vertical scale of one inch to twenty feet. 25 30

Plans of works
in connection
with reser-
voirs.

7. Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other source of water supply, or in order to create a pond, reservoir or basin of water anywhere, or which may have that effect, shall be prepared on a longitudinal scale of not less than one inch to one hundred feet, and for cross-sections on a scale of not less than one inch to twenty feet, and shall show what material is intended to be used and how placed in such works. The timber, brush, stone, brick or other material used in such works shall be shown in detail on a plan, the scale of which shall be not less than one inch to four feet. 35 40

Plans of
ground under
reservoirs.

8. Cross-section maps or plans showing the surface of the ground under such pond, reservoir or basin of water, and also the surface of the water proposed to be held therein; the horizontal scale of the said maps or plans shall be not less than one inch to one hundred feet; and the vertical scale shall be not less than one inch to twenty feet; and a sufficient number of lines of levels shall be shown, so that the contents of the pond, reservoir or basin of water may be accurately determined. If the maps or plans show the levels by contour lines, they shall be on a scale sufficiently large that the contour lines, showing a vertical distance between them not exceeding one foot, may be accurately delineated. The maps or plans shall have sufficient information to show clearly the property 45 50 55

likely to be affected by the creation of such ponds, reservoirs or basins of water, and the manner in which affected, and shall show in detail such other particulars as the Minister or Governor in Council sees fit to order; and there shall also be
5 furnished a plan, on a scale of not less than one inch to four feet, showing the proposed manner of controlling and drawing off the water from any such pond, reservoir, or basin.

13. The memorial and maps or plans shall be made in duplicate and signed by the applicant, or, if the applicant is a
10 company, by the executive officers thereof,—such of the maps or plans as are intended to show the land to be affected by the works being also signed and certified correct by a Dominion land surveyor,—and shall be filed, one copy with the Minister and the other copy with the agent, and the same or a true copy
15 thereof shall be open for examination by the public at all times in the Department of the Interior at Ottawa, and at the office of the agent.

Filing of memorial and plans with Minister and with agent.

2. In any case where he thinks proper, the Minister may direct that a copy be also filed in such other place or with
20 such other official or person as he names for that purpose, and such copy also shall be open to public inspection.

Filing elsewhere.

Carried
3. Public notice of such filing,—which notice shall contain a statement of the nature of the rights applied for and the general location and character of the proposed works,—shall
25 forthwith be given by the applicant in the *Canada Gazette*, and not less than once a week in some newspaper published in the neighbourhood of the proposed works and to be named by the agent, for a period of not less than thirty days nor more than ninety days, as the Minister determines,—within which time
30 all objections to the proposed works shall be forwarded to the Minister.

Notice of filing.

4. The Minister shall consider all objections filed and report thereon to the Governor in Council, who may thereupon by
Order in Council authorize the construction of the said works
35 with such changes or variations as are deemed necessary.

Proceedings thereupon.

14. Any works authorized under this Act shall, if the Minister so determines, be constructed subject to inspection during construction from time to time, and on completion, and at any time thereafter, by an officer to be named by the Minister; and
40 the cost of such inspection or such portion thereof as the Minister decides shall be borne by the company constructing such works.

Inspection of works.

Carried
2. Should any person residing on or owning land in the neighbourhood of any works, either completed or in course of
45 construction, apply to the Minister in writing desiring an inspection of such works, the Minister may order an inspection thereof.

Inspection on application of proprietor near works.

3. The Minister may require the applicant for inspection to make a deposit of such sum of money as the Minister
50 thinks necessary to pay the expenses of an inspection, and in case the application appears to him not to have been justified may cause the whole or part of the expenses to be paid out of such deposit.

Deposit to be made by applicant.

The application may be prosecuted

Enforcing
payment of
costs.

4. In case the company is required by the Minister to pay the expenses of an inspection or any part thereof, such payment may be enforced as a debt due to Her Majesty.

Works to be
made secure.

5. Upon any inspection under the provisions of this section the Minister may order the company to make any addition or alteration which he considers necessary for their security to or in any works of the company, and non-compliance with such order may be dealt with in the same manner as is provided with respect to an order of the Minister under section thirty-eight of this Act. 5 10

Public notice
to be given
before com-
mencing
works.

15. No work shall be commenced until the approval of the Governor in Council has been signified by public notice in the *Canada Gazette* and some newspaper published in the neighbourhood of the proposed works and named by the Minister, which notice shall set forth the particulars mentioned in the memorial, with such changes or variations as the Governor in Council sees fit to order, and shall specify a time within which such works shall be completed. Such notice shall be published in not less than two successive issues of such newspaper, and shall be the authority for proceeding with the work. A copy of the notice shall also be recorded in a book specially kept for that purpose by the agent in the office for his district, and this record shall remain open for public inspection. If either the lands on which the water is to be applied or the waters to be used therefor are not confined to the territory assigned to any one agent, a record must be filed with each agent in whose territory any part thereof is situate. 15 20 25

Carried

Changes in
plans to be
filed.

2. Any changes and variations ordered by the Governor in Council regarding the plans of the proposed works must be filed by the applicant in the office of the agent, and shall form a portion of the record open for public inspection. 30

Deviation
from plans.

3. No material deviation from the plans filed shall be made without permission, and any question arising as to whether any deviation is material or otherwise shall be decided by the Minister or such officer as he designates. 35

When works
may be com-
menced.

16. The company, immediately after the last publication of such last mentioned notice, may proceed with the execution and construction of the works authorized, and for the purposes of such execution and construction shall have the powers conferred by *The Railway Act* upon railway companies so far as the same are applicable to the undertaking of the company, and are not inconsistent with the provisions of this Act or with the authority given to the company, the provision conferring such powers being taken for this purpose to refer to any work of the company where in the said Act they refer to the railway. 40 45

Carried

Powers under
c. 29 of 1888.

Time for com-
mencing
works limited.

17. The construction of any work authorized under this Act shall be commenced not later than two months after the last publication of such last-mentioned notice, unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following, and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in 50

the authorization, provided there is sufficient water available for that purpose; and the Minister or such officer as he designates, shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour.

- 5 2. Should any unforeseen disaster intervene to prevent the construction or completion of the works within the time limited, or for any other reasons which he deems sufficient, the Governor in Council may authorize an extension of time for the commencement or completion of the works.

Extension of time in case of disaster.

- 10 3. Upon the expiration of the time limited for the completion of the works, the rights granted to the company shall cease and determine, except in so far as they are necessary for effectually operating the works then completed; and any works at the date of such forfeiture constructed or acquired by it may
15 be taken over and operated or disposed of by the Governor in Council in the manner hereinafter provided.

Forfeiture of rights if works are not completed within time limited.

18. When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner, his exclusive right shall be limited to the
20 quantity which such ditch, flume or other contrivance is capable of carrying; and in case of dispute as to such quantity the Minister may order an inspection of the works; and the report and finding of the inspecting officer as to the capacity thereof shall, for the purposes of this section, be final
25 and conclusive.

Company's rights limited by capacity of works.

19. Companies which acquire the right to use or divert water from any river or other source of supply shall, subject to the provisions of section eight, have priority among themselves according to the date of their licenses or authorizations, so that
30 each company shall be entitled to receive the whole of the supply to which its license or authorization entitles it, or to the amount of water which its works will carry, or to the amount of water required by the land on which it is applied, whichever is the smaller amount, before any company whose license
35 or authorization is of a later date has any claim to a supply; and should complaint be made to the Minister or to an officer authorized by him to receive such complaints that any company is receiving water from such source of supply to which another company is entitled by virtue of priority of right, and that the
40 company having such priority of right is not receiving the supply to which it is entitled, some officer to be named by the Minister or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case, and if he finds that there is ground for the complaint shall
45 cause the head-gates of the ditch or other works of the company which is receiving an undue supply of water to be closed so that the supply to which the other company is entitled shall pass and flow to its works.

Priority of right.

Settlement of disputes.

20. Every company and the officers and directors thereof
50 shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into by him, and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the

Information to be afforded to inspecting engineer.

Carried

Carried

Carried

*and upon the terms
upon the terms*

construction, repair or state of repairs of the works or any portion thereof.

Proof of his authority.

2. The production of instructions in writing signed by the Minister or his Deputy or the Secretary of the Department of the Interior, shall be sufficient evidence of the authority of such inspecting officer. 5

Penalty for obstructing him.

3. Every person who wilfully obstructs an inspecting officer in the execution of his duty shall be liable, on summary conviction, to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, with or without hard labour, or to both. 10

Power to take lands.

21. Lands required for the works of the company, as shown by the maps and plans filed, in whomsoever they are vested, whether in Her Majesty or in any company under this Act, or in any railway company, or in any other person whomsoever, or any interest in or right or privilege with regard to such land which is so required, may be taken and acquired by the company; and to this end all the provisions of *The Railway Act* which and so far as they are applicable to such taking and acquisition, shall apply as if they were included in this Act, the Minister of the Interior and the Department of the Interior being substituted for the Minister of Railways and Canals and the Department of Railways and Canals, respectively, wherever in the provisions of the said Act the latter Minister and Department are referred to: Provided, that the Minister of the Interior may impose such terms and conditions as he thinks proper in the public interest in connection with the acquisition under this section of any lands which are vested in any company under this Act, or in any railway company, or of any interest in such lands or any right or privilege affecting such lands. 15 20 25 30

Compensation for damages.

2. All the provisions of *The Railway Act* which are applicable shall in like manner apply to fixing the amount of and the payment of compensation for damages to lands arising out of the construction or maintenance of the works of the company or the exercise of any of the powers granted to the company under this Act. 35

Maps, &c., to be duly certified.

22. All maps, plans and books of reference showing the lands required by the company for any purpose in connection with the construction or maintenance of its works must be signed and certified correct by a duly qualified Dominion land surveyor. 40

Disputes as to lands taken.

23. The Minister or such officer as he designates shall, in case of dispute, be the sole arbiter as to the area of land which may be taken by the company without the consent of the owner for any purpose in the construction and maintenance of its works. 45

Penalty for obstructing engineer or surveyor.

24. Every person who interrupts, molests or hinders in his work any engineer or Dominion land surveyor engaged in making surveys or levels, or in other operations in connection with any work authorized under this Act, is guilty of an offence, and liable on summary conviction to a penalty not exceeding twenty dollars, or to imprisonment for a term not exceeding two months, or both. 50

Carried

25. No company authorized to divert the water of any river, stream, lake or other waters shall divert more water than the quantity actually required for the purpose authorized, and any company or officer or employee thereof so doing shall be
 5 guilty of an offence punishable on summary conviction by a fine not exceeding five dollars per day, or fraction of a day, for each unit or fraction of a unit of water so diverted.

Penalty for improper diversion of water by company.

Carried

2. In case of dispute as to the quantity of water diverted, the Minister may order an inspection of the works of the com-
 10 pany by an officer named by him for that purpose; and for the purposes of this section the report and finding of such officer as to the quantity diverted shall be final and conclusive.

Disputes as to quantity of water diverted.

Carried

26. Every person who, without authority, takes or diverts any water from any river, stream, lake or other waters or
 15 from any works authorized under this Act, or who takes or diverts therefrom any greater quantity of water than he is entitled to, is guilty of an offence and liable upon summary conviction to a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water improperly
 20 diverted, or to imprisonment for a term not exceeding days, or to both, and upon indictment to a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water improperly diverted, or to imprisonment for a term not exceeding days, or to both.

Penalty for improper diversion by any person.

Carried

27. When any company abandons or ceases to use any waters acquired by it for the purposes for which they were acquired, and any charge of such abandonment, or ceasing to use water, is made to the Minister, such charge may be enquired into by him or by any person or officer appointed
 30 by him for that purpose; and the Minister shall submit his report upon such enquiry to the Governor in Council, and the Governor in Council may make such order in the premises as he deems just and proper; and if the Governor in Council should, as he may, by such order declare a forfeiture of the
 35 right of the company offending to the use of the water authorized, the right so ordered or declared to be forfeited shall cease and determine.

Forfeiture of company's rights by waste or non-user.

Carried

28. Any company having the right to the use of water for irrigation or other purposes shall dispose of any surplus water
 40 flowing in its works which is not being utilized or used for the purposes authorized, to any person applying therefor for irrigation purposes and tendering payment for one month in advance at the regular prices.

Disposal of surplus water to applicants.

2. Persons so applying shall pay an amount equal to the cost
 45 and expense of the works required to convey the surplus water to them, or shall themselves construct such works, and until this is done the delivery of surplus water need not be made.

Payment by applicant.

3. When the necessary works have been constructed and the payment or tender herein provided for has been made, the
 50 applicant shall be entitled to the use of so much of the surplus water as such works have the capacity to carry.

Quantity of water to which applicant is entitled.

4. Nothing in this section shall be construed to give to any person acquiring the right to use surplus water any right to

Limitation.

the said surplus water when it is needed by the company for the purposes authorized, or to waste or sell or dispose thereof after being used by him, or shall prevent the original owners from retaking, selling or disposing thereof in the usual or customary manner after it has been so used as aforesaid. 5

No discrimination in prices after stated time.

29. No company undertaking to sell water conveyed by its works shall, subsequent to the first four years after the construction of such works as are necessary to convey the water to the user, discriminate between the users of such water regarding the price thereof. 10

If supply of water is insufficient.

2. If from any cause the whole amount of water agreed to be supplied by a company is not available, then each user shall have furnished to him by the company so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished. 15

Penalty.

3. Any company violating these provisions shall be guilty of an offence against this Act and liable upon summary conviction to a fine not exceeding one thousand dollars for each and every such offence, or to imprisonment for a period not exceeding months, or to both. 20

Subterranean waters.

30. The right to the use of waters flowing in well defined subterranean channels and courses may be acquired, under the provisions of this Act, and no person shall by drains, ditches, subterranean galleries or other like works, collect and divert percolating waters supplying such subterranean channel and courses to the prejudice of any company which has already acquired the right thereto: Provided however, that nothing in this section contained shall be so construed as to render any company liable in damages for the diversion or obstruction of the flow of subterranean waters by lawfully excavating for cellars, or for mining, quarrying or carrying on like works on its own land, or for excavating drains for draining and improving its own land, or to prohibit the owner of any land from sinking wells thereon, and thereby collecting the waters percolating through such land, and by means of pumps, buckets, or other appliances withdrawing such waters for domestic purposes. 25 30 35

Application for license to bore artesian well.

31. Every applicant for a license or authorization to sink or bore for an artesian well shall file with the Minister and the agent a memorial setting forth his name and residence, or, if the applicant is an incorporated company, the names of its shareholders and their places of residence, the date and manner of its incorporation, the names of its directors and officers, the extent of the company's subscribed capital and amount of paid-up capital, the proposed method of raising further funds if needed, and the purposes for which the Company is incorporated. The memorial shall also state the particular location of the proposed well, specifying, if upon surveyed lands, the particular legal subdivision and the part thereof whereon such well will be situated,—if on unsurveyed lands, the location of such well by reference to the nearest township or section corner with sufficient accuracy to identify it with reasonable certainty,—if in any city, town, village or hamlet, the particular lot or parcel 40 45 50

upon which such well will be situated,—and shall also state the probable quantity of water required to be used and the purpose to which said water is to be applied, the proposed rate to be charged for water, the probable number of consumers, if water is to be used for irrigation, the probable quantity of land that may be beneficially irrigated, and such other and further particulars as are needful to a full understanding of the scheme and as are required by the Minister.

32. No company shall take water from any subterranean channel if by its so doing the rights of any person lawfully using such water are prejudiced. Rights saved.

33. Every person or company sinking or boring for an artesian well shall cause to be placed in such well a sufficient casing of strength sufficient, and so arranged and placed, as to prevent the caving in of strata of clay, sand, or other unconsolidated matter carrying water not appropriated or claimed by the proprietor of such well, and shall so case such well as to prevent the escape of the waters thereof into such strata, and shall cause such well to be furnished with such appliances at or near to the surface as will readily and effectively arrest and prevent the flow of water from such well. Precautions to be taken.

34. The Minister may grant to any company the right to store for irrigation purposes during periods of floods or high water, or during those portions of the year when water is not required for irrigation purposes, any water not being used during such periods. Storage of water.

2. Should there be any works for the carriage of water which are not being utilized to their full capacity by their owner, and which can with advantage be utilized to carry the whole or any portion of the water desired to be stored any portion of the distance it is required to be so carried or conducted, without interfering with the use made of the said works by their owner, then the said works shall be placed at the disposal of the company desiring to so use it; and if the parties cannot agree to the compensation to be paid for such service, the Minister may fix the rate to be paid therefor. Utilization for that purpose of existing works.

35. Any person or company constructing any works under the provisions of this Act, shall during such construction keep open for safe and convenient travel all public highways theretofore publicly travelled as such, when they are crossed by such works, and shall, before water is diverted into, conveyed or stored by any such works extending into or crossing any such highway, construct, to the satisfaction of the Minister, a substantial bridge, not less than fourteen feet in breadth, with proper and sufficient approaches thereto, over such works; and every such bridge and the approaches thereto shall be always thereafter maintained by such person or company. Highway crossings.

36. Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement of flowing water, and the cubic foot or acre foot, the unit of measurement of quantity. The acre foot is equivalent to forty-three thousand five hundred and sixty cubic feet. Unit of measurement.

Annual return
by company.

37. Companies constructing and operating works under this Act shall, on or before the thirty-first day of January in each year, make a return to the Minister, attested by the oath of its president and secretary, for the year ending the thirty-first day of December preceding, showing :

- The amount expended on construction ;
- The amount expended on repairs ;
- The amount received from shareholders ;
- The amount of bonds issued ;
- The amount received for water supplied for irrigation ; 10
- The amount received from other sources ;
- The amount of dividend declared and paid ;
- The amount of capital stock authorized ;
- The amount of capital stock subscribed ;
- The amount of capital stock paid up to date ; 15
- The amount of bonded indebtedness ;
- The amount bonds sold for ;
- The rate of interest bonds bear ;
- The amount of indebtedness other than bonds, and the rate of interest such indebtedness is bearing ; 20
- The cost of management ;
- A statement of the works, and their extent and character ;
- The number of miles of canals, ditches, etc ;
- The number of users ;
- The number of acres actually under irrigation ; 25
- The number of acres of irrigable land in the system ;
- The names of officers and employees ;
- The proposed extensions during ensuing years and the acreage to be covered thereby.
- Such other data as the Governor in Council sees fit to 30 order.

Copy of by-laws.

2. Attached to such annual return shall be a copy of the by-laws of the company, showing all amendments thereto during the year covered by the said return.

Exception.

3. The returns required by this clause may be waived by 35 the Minister in the case of a private person supplying water solely to himself.

Order by
Minister in
case of com-
plaint against
company.

38. When a complaint, under oath of the complaint and of at least one witness, is made to the Minister or the agent by a consumer of water who has paid his rates that a company 40 which has engaged or is under obligation to supply him with water is failing to do so, or is failing to keep its works in proper condition, the Minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the com- 45 plaint, and if he considers the complaint established may order and direct that the company shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint.

Reference to
judge.

2. If the company fails to obey such order, the Minister 50 shall forthwith issue a certificate to that effect, reciting all the facts, which certificate being presented to the judge of the Supreme Court for the judicial district within which such works lie, the judge shall hear and determine the matter in a summary manner, and shall order the company to proceed with 55

all despatch to take such measures as he considers necessary in the premises; and refusal or neglect to obey any order made by a judge under this section may be treated and punished as contempt of court and such other proceedings may be had and
 5 taken thereon as in the case of non-compliance with any other mandatory order of the said court or a judge thereof.

Refusal to
obey order of
judge.

Carried

39. The Governor in Council may authorize two or more companies whose works are contiguous, to unite and form one company with a view to providing increased water supply and
 10 extending their works, when he is satisfied that the holders of more than fifty per cent of the capital stock of each company are in favour of the union, that users dependant upon the water supply will not be injured, and that the companies to be united have the necessary financial means for carrying out the pro-
 15 posed undertaking,—the same particulars being furnished to the Governor in Council as are required to be furnished upon an application for authorization to construct works under this Act; and public notice of the authorization of the united com-
 20 panies and their proposed works shall be given in the manner prescribed in the case of an application under section fifteen.

Amalgama-
tio of com-
panies.

Carried

40. The Minister or any one specially authorized by him may, when he deems it necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it, summon before him any person by subpoena,
 25 examine such person under oath, and compel the production of papers and writings; and for neglect to obey such summons or refusal to give evidence, or to produce the papers or writings demanded of him, the Minister or the person author-
 30 ized may, by warrant under his hand, order the person in default to be imprisoned in the nearest common jail as for contempt of court, for a period not exceeding fourteen days.

Minister may
issue sum-
mons.

Penalty for
disobeying it.

Carried

41. All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder, may be taken before any agent authorized
 35 under this Act, a Dominion lands agent or officer, or any persons specially authorized by the Minister to take them; and the Minister may require any statement called for under this Act, or under any such regulation, to be verified by oath, affidavit, affirmation or declaration.

Before whom
affidavits may
be taken.

Carried

40 42. The Governor in Council may take such steps as he deems necessary at any time to secure a complete or partial survey of the sources of the water supply for irrigation and
 45 other purposes, with an estimate of the extent and location of irrigable lands, and of the site or sites suitable for ponds, basins and reservoirs for water storage, and may reserve lands forming such sites from general sale and settlement and dispose thereof by sale or lease to be utilized for purposes within the purview of this Act. He may also take such steps as he thinks neces-
 50 sary to protect the sources of water supply and to prevent any act likely to diminish or injure the said supply.

Governor in
Council may
order surveys,
&c.

Carried

43. The Governor in Council may from time to time authorize the establishing in rivers, streams, lakes, and other

High-water
marks, analysis
of water, &c.

waters, water gauges for computing the approximate volume and discharge of waters; the placing of high water marks on rivers and streams, lakes and other waters when in flood; the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters, and the adopting of such other measures and proceedings for promoting the beneficial use of water, and for controlling and regulating the diversion and the application thereof as he finds necessary and expedient and as are consistent with the provisions of this Act.

Expropriation
of works by
Government.

Proviso.

Proviso.

Proviso.

By-laws of
company.

Issue of bonds
by company.

Acquisition of
lands by com-
pany.

Company may
construct tele-
graph and tele-
phone lines,
&c.

44. The Governor in Council may, if in the public interest it is at any time deemed advisable so to do, take over and operate or otherwise dispose of the works of any company authorized under this Act: Provided, that compensation shall be paid for such works at their value, such value to be ascertained by reference to the Exchequer Court, or by arbitration, one arbitrator to be appointed by the Governor in Council, the second by the owner of the works to be taken over, and the third by the two so appointed, or in case these cannot agree as to the third arbitrator, by the Exchequer Court, and that in estimating such value the court or the arbitrators may take into account the expenditure of the company and interest on such expenditure, and the value of its property, works and business; Provided also, that no person who at such date is using the water of the said works, shall be deprived of the quantity of water he is entitled to: Provided further, that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who have prepared or have in course of preparation any land to be supplied with water by the works taken over.

45. The by-laws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act, and shall be subject to revision and approval by the Governor in Council; and no tariff of charges for water furnished by any company shall come into operation until it has been approved by the Governor in Council.

46. Any company authorized under this Act may issue bonds, debentures or other securities to the amount of its subscribed capital, or double the amount of its paid-up capital, whichever is the smaller amount.

47. Any company authorized under this Act may acquire land by purchase or lease for improvement by irrigation, and shall dispose thereof within fifteen years after its acquisition, otherwise such lands shall revert to the Crown.

48. Any company authorized under this Act may for the purposes of its undertaking construct or acquire electric telegraph and telephone lines or any other contrivances for the transmission of messages through or along wires, rods, tubes or other appliances, and may acquire any land necessary for the construction and operation of such lines or contrivances, and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section twenty-one of this Act.

49. The Governor in Council may—

Define the manner in which the measurement of water shall be arrived at;

Define the duty of water according to locality and soil;

5 Define the portion of the year during which water shall be supplied for irrigation;

Fix the license fee or charge to be paid by companies applying for registration of water rights or for authority to engage in irrigation or other works under this Act,—which fees
10 or charges may be varied according to the capital employed or volume of water diverted;

Regulate the extent of diversion from rivers, streams, lakes or other waters;

Regulate the passage of logs, timber and other products of
15 the forests through or over any dams or other works erected in rivers, streams, lakes and other water under the authority of this Act;

Regulate from time to time the water rates which may be charged by companies, and the publication of tariffs of rates;

20 Prescribe forms to be used in proceedings under this Act;

Impose penalties for violations of any regulation made under the authority of this Act,—which penalties shall in no case exceed a fine of two hundred dollars or three months imprisonment or both;

25 Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals, or under both systems;

Authorize some person or officer, whose decision shall be final and without appeal, to decide in cases of dispute as to
30 what constitutes surplus water as mentioned in this Act.

Make such orders as are deemed necessary, from time to time, to carry out the provisions of this Act according to their true intent, or to meet any cases which arise and for which no provision is made in this Act; and further make any regula-
35 tions which are considered necessary to give the provisions of this Act full effect.

o i c

50. All regulations made by the Governor in Council under this Act shall be published in the *Canada Gazette* and shall be laid before both Houses of Parliament within the first
40 fifteen days of the session next after the date thereof.

51. Any companies already formed to promote irrigation shall be subject to all the provisions of this Act, except so far as the powers mentioned in section forty-six of this Act are concerned.

General
powers of
Governor in
Council.

Publication of
Orders in
in Council.

Application of
Act to com-
panies now
existing.